

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emma Kaisla	Team: Squad #15	CCRB Case #: 201910318	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 11/23/2019 2:15 AM	Location of Incident: 33-08 Broadway	Precinct: 114	18 Mo. SOL 5/23/2021	EO SOL 1/7/2022	
Date/Time CV Reported Sat, 11/23/2019 3:43 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 11/29/2019 11:04 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Omar Castillo	01725	929854	114 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Tommy Voutsinas	11286	961431	114 PCT
2. POM Brian Bayley	14042	960219	114 PCT
3. POM Keith Lang	23218	957757	114 PCT
4. POM Daniel Roland	09499	965479	114 PCT
5. POM Elias Bardis	16765	957357	114 PCT
6. POM Joseph Basirico	21349	959480	114 PCT
7. POM Eric Agueros	00471	961597	114 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Omar Castillo	Discourtesy: Sergeant Omar Castillo spoke discourteously to § 87(2)(b)	

## Case Summary

On November 29, 2019, § 87(2)(b) filed this complaint with IAB via telephone. IAB referred the case to the CCRB on the same day.

Around 2:00 a.m. on November 23, 2019, § 87(2)(b) got into a physical dispute with a manager and bouncers at 33-08 Broadway, a bar in Queens. The fight moved out of the bar onto the sidewalk. Both § 87(2)(b) and the bar manager called 911 to report the assault. Sgt. Omar Castillo, Police Officer Tommy Voutsinas, Police Officer Brian Bayley, Police Officer Keith Lang, Police Officer Joseph Basirico, Police Officer Eric Agueros, Police Officer Elias Bardis, and Police Officer Daniel Roland responded to the location. The officers spoke to § 87(2)(b) and went into the bar's basement to look at security footage of the dispute. While in the basement, Sgt. Castillo allegedly swore at § 87(2)(b) saying "he's not gonna see the fuckin tapes" and "why the fuck you brought him down here?" (**Allegation A: Discourtesy – Word**, § 87(2)(g)). While officers were leaving, § 87(2)(b) walked into the road and officers told him to get back on the sidewalk. The officers left without effecting any arrests or issuing any summons.

§ 87(2)(b) provided two videos and an audio recording which he recorded on his cellphone during the incident. The footage is attached in IAs #14, 15, 18 and summarized in IAs #31 and 32 (Board Reviews 01-05). There is also video footage of the incident from the body-worn cameras (BWC) of Police Officer Tommy Voutsinas, Police Officer Brian Bayley, Sgt. Omar Castillo, Police Officer Keith Lang, Police Officer Joseph Basirico, and Police Officer Eric Agueros, Police Officer Elias Bardis, and Police Officer Daniel Roland. This footage is attached in IAs 54-61 and summarized in IA #62 (Board Review 06-14).

## Findings and Recommendations

### Allegation (A) Discourtesy: Sgt. Omar Castillo spoke discourteously to § 87(2)(b)

§ 87(2)(b) provided a telephone statement on November 29, 2019. He was interviewed at the CCRB on December 3, 2019. Managers from the bar 33-08 Broadway were uncooperative with the investigation and did not provide a statement.

It is undisputed that on November 23, 2019, Sgt. Castillo responded to a 911 call to bar at 33-08 Broadway in Queens. On arrival to the location, officers spoke to 911 caller § 87(2)(b) and managers from the bar. Sgt. Castillo and several other officers went into the bar's basement to view security footage of the incident. § 87(2)(b) went downstairs to view the footage, was told to leave, and then returned upstairs. It remains in dispute whether Sgt. Castillo and § 87(2)(b) had any direct contact while in the basement and whether Sgt. Castillo spoke discourteously to § 87(2)(b) during that contact.

In his initial phone statement, § 87(2)(b) stated that officers spoke discourteously to him several times. When § 87(2)(b) asked them to file a report about the bouncers attacking him, officers told him "I'm not fucking making a report" and to "get the fuck out." § 87(2)(b) walked into the road to film the police vehicles' license plates, and officers told him to "get the fuck out the street."

During his sworn statement, § 87(2)(b) stated that Sgt. Castillo swore at him in the basement saying "he's not gonna see the fucking tapes" and asking "why the fuck you brought him down here?". § 87(2)(b) further stated that officers told him to get out of the street when he was filming their vehicles, but did not mention any officer using profanity while doing so.

The audio recorded by § 87(2)(b) does not contain any profanity, nor do either of the videos he provided. In the second video, attached in IA #15, officers are heard and seen shouting to § 87(2)(b) to get out of the street from about 0:11 seconds into the recording until 0:30 seconds (Board Review 02). Officers yell, but they do not use any profanity in the video. § 87(2)(b)'s video appears to account for the entire encounter in the street, as it shows § 87(2)(b) walk into the street and ends with the last of the police vehicles leaving the scene.

Apart from Police Officer Voutsinas, all officers turned off their BWCs outside the bar on the sidewalk or before § 87(2)(b) entered the basement. The BWCs of Sgt. Castillo, Police Officer Bayley, Police Officer Lang, Police Officer Basirico, Police Officer Agueros, Police Officer Bardis, and Police Officer Roland do not capture any footage involving § 87(2)(b) in the basement or officers leaving the scene. These BWC videos do not contain any profanity (Board Reviews 07-13).

Police Officer Voutsinas' BWC, attached in IA #54, was the only instance of profanity captured on video (Board Review 06). At 19:43 minutes into the video, Police Officer Voutsinas stands in the security room. Sergeant Castillo stands to his right, and officers Police Officer Bayley and Police Officer Roland stand in the hallway, visible through an open door. A manager enters the security room from the hallway, stating he wants to show § 87(2)(b) the security footage. Another employee objects to this idea, and the manager steps back into the hallway with § 87(2)(b). Sgt. Castillo leans his head into the hallway, his back to Police Officer Voutsinas.

At 19:57 minutes into the video, a male voice is heard saying from the hallway "You're gonna go up there and get the fuck out of here." At the moment when the male voice is audible, § 87(2)(b) the manager, Police Officer Bayley, and Police Officer Roland are standing in the hallway, and Sgt. Castillo is leaning into the hallway. Because Police Officer Voutsinas is standing in the security room and not the hallway, none of these individuals' faces are visible on screen when the voice is heard.

Sgt Castillo recalled reviewing security camera footage in the basement but denied having any interaction with § 87(2)(b) in the basement. He believed one of the managers of the bar asked why § 87(2)(b) was downstairs and told others to get him out of the basement. Sgt. Castillo did not recall this manager using any profanity, nor did he recall anyone, civilian or officer, using any profanity towards § 87(2)(b) while he was in the basement. Shown the BWC footage from Police Officer Tommy Voutsinas's BWC, attached in IA #54, Sgt. Castillo testified that he thought the voice said "you're gonna fucking lie to me." He denied the voice was his, and he stated he did not know whose voice was speaking.

Police Officer Bayley did not independently recall § 87(2)(b) going downstairs to look at security footage or any conversation regarding § 87(2)(b) being allowed to view security footage. Police Officer Bayley was presented Police Officer Voutsinas' BWC attached in IA #54 from 19:54 into the recording. Police Officer Bayley stated he heard the word "fuck," but could not understand the full sentence. He believed the voice belonged to § 87(2)(b).

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### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- Sgt. Castillo has been a member of service for 17 years and has been a subject in nine CCRB complaints and twenty-two allegations, none of which were substantiated. § 87(2)(g)

### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- A Notice of Claim request was submitted to the NYC Office of the Comptroller on February 25, 2020. The results will be included in the case file upon receipt.
- § 87(2)(b), § 87(2)(c)

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date